

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Gore, et al.

Confirmation No. 4274

Serial No. : 10/007,164

Examiner: Tiv, Backhean

Filed: November 30, 2001

Art Unit: 2151

For: END-TO-END PERFORMANCE TOOL AND METHOD
FOR MONITORING ELECTRONIC-COMMERCE TRANSACTIONS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION TO OVERCOME A CITED PATENT
(37 C.F.R. § 1.131)

1. The persons making this declaration are Richard GORE, Joshua WILMES, Alan CONLEY, and Mehrdad PIROUZ, inventors of the above-referenced U.S. Patent Application No. 10/007,164 ("Application").

2. Certain claims of the present Application are currently rejected under 35 USC §102(e) in view of U.S. Patent No. 7,197,559 B2 (Goldstein). Those portions of Goldstein that are supported by the provisional application 60/289,923 have an effective filing date in the United States of May 9, 2001.

3. Actual reduction to practice of the invention that is the subject of the claims in the present application occurred in this country at least before May 9, 2001. Namely, a working model of the entire claimed invention was built and functioning at least before May 9, 2001.

4. An invention submission form that was submitted by the inventors to the assignee Cisco Systems, Inc. on January 21, 2001 corroborates and otherwise demonstrates the correctness of the declaration that the working model of the entire claimed invention was

built and functioning at least before May 9, 2001. See Exhibit A, at least page 4, line 7-8. Certain confidential portions of the invention submission form, such as email addresses, have been redacted.

5. A copy of an email sent between the inventors on April 2, 2001 further corroborates and otherwise demonstrates the correctness of the declaration that the working model of the entire claimed invention was built and in operation at least before May 9, 2001. The email shows, amongst other things, that during April 2001 the inventors were assigning a person to draft a user manual of the working model for customer consumption and to conduct a walk-through demonstration of the working model to customers. See Exhibit B, at least page 1, lines 34-41. Certain confidential portions of the copy of the email, such as email addresses, have been redacted.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated:

4/24/2008


Richard GORE

Dated:

4/23/2008


Joshua WILMES


Dated:

4/29/2008


Alan CONLEY

Dated:

04/26/2008


Mehrdad PIROUZ